

EX. 3

MDOC GRIEVANCE PROCEDURES, SOP 20-08-01  
EFFECTIVE DATE AUGUST 1, 2012

	MISSISSIPPI DEPARTMENT OF CORRECTIONS	SOP NUMBER 20-08-01
	GRIEVANCE PROCEDURES	AGENCYWIDE  INITIAL DATE 12-15-1997
ACA STANDARDS: 2-CO-3C-01, 4-4248, 4-4284, 4-ACRS-6B-03		EFFECTIVE DATE 08-01-2012
STATUTES: 47-7-9, 47-7-27, 47-7-37	NON-RESTRICTED	PAGE 1 of 8

1 **APPLICABILITY:**

2  
3 This procedure applies to all employees of the Mississippi Department of Corrections and to all  
4 offenders committed to the custody of the Mississippi Department of Corrections.

5 **POLICY STATEMENT:**

6 It is the policy of the Mississippi Department of Corrections (MDOC) to maintain a written  
7 offender grievance procedure.

8 **DEFINITIONS:**

9 Administrative Remedy Program (ARP) – A program by which an offender may request  
10 administrative remedy for situations arising from policies, conditions, or events within the MDOC  
11 that affect them personally.

12 Administrative Remedy Program Administrator – Supervisor of MDOC's  
13 Administrative Remedy Program in Central Mississippi Correctional Facility, Mississippi  
14 State Penitentiary, South Mississippi Correctional Institution, Restitution Centers,  
15 Community Work Centers, and any other facility housing offenders committed to the  
16 custody of the Mississippi Department of Corrections who coordinates the program at all  
17 administrative levels.

18 Legal Claims Adjudicator – A staff member whose responsibility is to coordinate and  
19 facilitate the Administrative Remedy Procedure process.

20 Grievance – A written complaint by an offender on the offender's own behalf regarding a  
21 policy applicable within an institution, a condition within an institution, an action involving an  
22 offender of an institution, or an incident occurring within an institution.

23 Emergency Grievance – A matter in which disposition within the regular time limits would  
24 subject the offender to a substantial risk of personal injury, or cause other serious and  
25 irreparable harm to the offender.

26 Days – Calendar days.

27 **PROCEDURES:**28 **GENERAL**

29 Administration of Correctional Agencies (Central Office): Written agency policies provide  
30 offenders/juveniles/residents with the following:

<b>TITLE: GRIEVANCE PROCEDURES</b>		<b>SOP NUMBER</b> <b>20-08-01</b>
EFFECTIVE DATE: 08-01-2012	NON-RESTRICTED	PAGE 2 of 8

- 43     • access to courts  
 44     • access to counsel  
 45     • access to law library  
 46     • access to programs and services  
 47     • access to media  
 48     • procedures that reasonably ensure the safety and well-being of offenders  
 49     • procedures for searches  
 50     • procedures for disciplinary actions  
 51     • grievance procedures  
 52     • freedom from racial, ethnic, gender, and religious discrimination [2-CO-3C-01]

53  
 54     *Adult Correctional Institutions:* There is a written inmate grievance procedure that is made  
 55     available to all inmates and that includes at least one level of appeal [4-4284].

56  
 57     *Adult Community Residential Services:* A grievance procedure that includes at least one  
 58     level of appeal is available to all offenders. The grievance procedure is evaluated at least  
 59     annually to determine its efficiency and effectiveness. The quantity and nature of  
 60     offender grievances are aggregated and analyzed annually [4-ACRS-6B-03].

61  
 62     The Legal Claims Administrator will annually solicit comments and suggestions on the  
 63     processing, the efficiency and the credibility of the Administrative Remedy Procedure.

64  
 65     All offenders will be entitled to invoke this grievance procedure. It will be the  
 66     responsibility of the Case Manager to provide appropriate assistance for offenders with  
 67     literacy deficiencies or language barriers. No action will be taken against an offender for  
 68     the good faith use of or good faith participation in the procedure. Reprisals of any nature  
 69     are prohibited. Offenders are entitled to pursue, through the grievance procedure, a complaint  
 70     that a reprisal occurred.

71  
 72     All aspects of the ARP process will be monitored by the ARP Administrator to insure that all  
 73     time-limits are followed and that appropriate relief and responses are prepared at each  
 74     level.

75  
 76     **REVIEWERS:** If an offender registers a complaint against a staff member, that employee  
 77     will not play a part in making a decision on the request. However, this will not prevent the  
 78     employee from participating at Step One, since the employee complained about may be the  
 79     best source from which to begin collecting information on an alleged incident. If the  
 80     offender is not satisfied with the decision rendered at the First Step, he should pursue his  
 81     grievance to the Legal Claims Adjudicator via the Second Step.

82  
 83     **COMMUNICATIONS:** Offenders must be made aware of the system by oral explanation at  
 84     orientation and should have the opportunity to ask questions and receive oral answers. The  
 85     procedures will be posted in writing in areas readily accessible to all offenders.

86  
 87     **WRITTEN RESPONSES:** At each stage of decision and review, offenders will be provided  
 88     legibly written or typed answers that explain the information gathered or the reason for the  
 89     decision reached along with simple directions for obtaining further review.

<b>TITLE: GRIEVANCE PROCEDURES</b>		<b>SOP NUMBER</b> <b>20-08-01</b>
EFFECTIVE DATE: 08-01-2012	NON-RESTRICTED	PAGE 3 of 8

90      **INITIATION OF THE PROCESS**

91  
92      Before initiating the formal process, offenders should always try to resolve their problems  
93      informally within the institution. This informal resolution may be accomplished through  
94      discussions with staff members, etc. If the offender is unable to resolve his problems or  
95      obtain relief, he may initiate the formal process.

96  
97      Nothing in this procedure should serve to prevent or discourage an offender from  
98      communicating with anyone in MDOC. The requirements set forth in this document for  
99      acceptance into the Administrative Remedy Procedure are solely to assure that incidents which  
100     may give rise to a cause of action will be handled through this two step system of review.

101  
102     If an offender refuses to cooperate with the inquiry into his allegation, the request may be  
103     denied by noting the lack of cooperation on the appropriate Step Response and returning it to  
104     the offender.

105      **SCREENING**

106  
107     The Legal Claims Adjudicator will screen all requests prior to assignment to the First Step.  
108     The screening process should not unreasonably restrain the offender's opportunity to  
109     seek a remedy. If a request is rejected, it must be for one of the following reasons which will be  
110     noted on Form ARP-1:

111  
112     This matter is not appealable through this process such as:

- 113       • Court decisions
- 114       • Parole Board/Pardon Board decisions
- 115       • It is a duplicate request.
- 116       • In cases where a number of offenders have filed similar or identical requests seeking  
117           administrative remedy, it is appropriate to respond only to the offender who filed the initial  
118           request. Copies of the decision sent to other offenders who filed requests simultaneously  
119           regarding the same issue will constitute a completed action. All such requests will be  
120           logged.
- 121       • The complaint concerns an action not yet taken or a decision which has not yet been made.
- 122       • The offender has requested a remedy for another offender.
- 123       • The offender has requested a remedy for more than one incident (a multiple  
124           complaint).
- 125       • Established rules and procedures were not followed.
- 126       • If an offender refuses to cooperate with the inquiry into his allegation, the request may be  
127           denied due to lack of cooperation.

<b>TITLE: GRIEVANCE PROCEDURES</b>		<b>SOP NUMBER</b> <b>20-08-01</b>
EFFECTIVE DATE: 08-01-2012	NON-RESTRICTED	PAGE 4 of 8

138     • There has been a time lapse of more than 30 days between the event and the initial request,  
 139       unless waived by the Legal Claims Adjudicator.

140  
 141     Notice of the initial acceptance or rejection of the request will be provided to the offender.

142  
 143     **MULTIPLE REQUESTS:** Except for disciplinary appeals, if an offender submits multiple  
 144       requests during the review of a previous request, they will be logged and set aside for  
 145       handling at such time as the request currently in the system has been exhausted at the  
 146       Second Step or until time limits to proceed from the First Step to the Second Step have  
 147       lapsed. RVR appeals will not be logged and set aside. A maximum of ten (10) requests will  
 148       be logged. Requests above that number will be returned to the offender and not filed.

149  
 150     **REPRISALS:** No action will be taken against anyone for the good faith use of or good faith  
 151       participation in the procedure. The prohibition against reprisals should not be construed to  
 152       prohibit discipline of offenders who do not use the system in good faith. Those who file  
 153       requests that are frivolous or deliberately malicious may be disciplined under the  
 154       appropriate rule violation.

155  
 156     The ARP Administrator will be responsible for determining and communicating to offenders who  
 157       misuse the ARP. The offenders will be notified about their non-compliance with the rules and  
 158       the consequences of frivolous or malicious filings.

159  
 160     **FIRST STEP (Time Limit 40 days)**

161  
 162     The offender commences the process by writing a letter to the Legal Claims Adjudicator, in  
 163       which he/she briefly sets out the basis for his/her claim, and the relief sought (Refer to Initiation  
 164       of Process" for the requirements of the letter.)

165  
 166     The offender should make a copy of his letter of complaint and retain it for his own records.  
 167     The original letter will become a part of the process and will not be returned to the offender.  
 168     The institution is not responsible for providing the offender with copies of his letter of  
 169       complaint.

170  
 171     This letter will be written to the Legal Claims Adjudicator within 30 days of an alleged event  
 172       (This requirement may be waived when circumstances warrant. The Legal Claims Adjudicator or  
 173       his designee will use reasonable judgment in such matters).

174  
 175     The requests will be screened by the Legal Claims Adjudicator and a notice will be sent to the  
 176       offender advising that his request is being processed or is being rejected. The First Step  
 177       Respondent will respond to the offender within 40 days from the date the request is received at  
 178       the First Step.

179  
 180     For offenders wishing to continue to the Second Step, sufficient space will be allowed on the  
 181       response to give a reason for requesting review at the next level. There is no need to  
 182       rewrite the original letter of request as it will be available to all reviewers at each Step of the  
 183       process.

<b>TITLE: GRIEVANCE PROCEDURES</b>		<b>SOP NUMBER</b>
<b>EFFECTIVE DATE: 08-01-2012</b>		<b>20-08-01</b>
	<b>NON-RESTRICTED</b>	<b>PAGE 5 of 8</b>

184     **SECOND STEP (Time limit 45 days)**

185  
186     An offender who is dissatisfied with the First Step response may appeal to the Legal  
187     Claims Adjudicator by so indicating that he is not satisfied in the appropriate space on  
188     the response form and forwarding it to the Legal Claims Adjudicator within 5 days of receipt  
189     of the decision. A final decision will be made by the Superintendent, Warden or Community  
190     Corrections Director and the offender will be notified within 45 days of receipt.

191  
192     If an offender is not satisfied with the Second Step response, he may file suit in State or  
193     Federal Court. The offender must provide the administrative remedy procedure number on the  
194     court forms.

195     **DEADLINES AND TIME LIMITS**

196  
197     No more than 90 days from the initiation to completion of the process will elapse, unless  
198     extension(s) have been granted. Absent such an extension, expiration of response time  
199     limits will entitle the offender to move on to the next Step in the process. Time limits begin on  
200     the date the request is assigned to a staff member for the First Step response.

201  
202     An offender may request an extension in writing of up to five days in which to file at any stage of  
203     the process. This request will be made to the Legal Claims Adjudicator. The offender must  
204     certify valid reasons for the delay, which reasons must accompany his untimely request.  
205     The issue of sufficiency of valid reasons for delay will be addressed at each Step, along with the  
206     substantive issue of the complaint.

207  
208     The First Step Respondent may request permission for an extension of not more than five days  
209     from the Legal Claims Adjudicator at Step One review/response. The offender must be notified  
210     in writing of such an extension.

211  
212     In no case may the cumulative extensions exceed 25 days.

213  
214     The ARP Administrator will devote particular personal attention to all grievances of a sensitive  
215     or emergency matter to insure that these matters are handled expeditiously and appropriately.

216     **PROBLEMS OF AN EMERGENCY NATURE**

217  
218     If an offender feels he is subjected to emergency conditions, he must send an  
219     emergency request to the Legal Claims Adjudicator. The Legal Claims Adjudicator will  
220     immediately review the request and forward the request to the level at which corrective action  
221     can be taken.

222  
223     Abuse of the emergency review process by an offender will be treated as a frivolous or  
224     malicious request and the offender will be disciplined accordingly. Particularly, but not  
225     exclusively, matters relating to administrative transfers, time computation disputes and  
226     family illness or death are NOT to be treated as emergencies for purposes of this  
227     procedure, but will be expeditiously handled by the Legal Claims Adjudicator, when  
228     appropriate.

<b>TITLE: GRIEVANCE PROCEDURES</b>		<b>SOP NUMBER</b>
<b>EFFECTIVE DATE: 08-01-2012</b>		<b>20-08-01</b>
	<b>NON-RESTRICTED</b>	<b>PAGE 6 of 8</b>

231     **SENSITIVE ISSUES**

232  
233     If the offender believes the complaint is sensitive and would be adversely affected if  
234     the complaint became known at the institution, he may file the complaint directly with the  
235     Deputy Commissioner. The offender must explain, in writing his reason for not filing the  
236     complaint at the institution.

237  
238     If the Deputy Commissioner agrees that the complaint is sensitive, he will accept and  
239     respond to the complaint. If he does not agree that the complaint is sensitive, he will so  
240     advise the offender in writing, and return the complaint to the Legal Claims Adjudicator office.  
241     The offender will then have five days from the date the rejection memo is received to submit his  
242     request through regular channels (beginning with the First Step if his complaint is  
243     acceptable for processing in the Administrative Remedy Program.

244     **MEDICAL**

245  
246     Medical complaints will be handled at the First Step by a licensed primary care physician and  
247     at the Second Step by the site medical director who is a licensed and supervisory doctor.

249     **SENTENCE COMPUTATION**

250  
251     Sentence computation and records issues involving the calculation of the length of time  
252     an offender must serve will be handled at the First Step by a knowledgeable Records office  
253     employee and at the Second Step through a personal meeting with a records office supervisor.

255     **ADMINISTRATIVE REMEDY PROCEDURE RECORDS**

256  
257     Administrative Remedy Procedure records are confidential. Employees who are participating  
258     in the disposition of a request may have access to records essential to the resolution of  
259     requests.

260  
261     All reports, investigations, etc., other than the offender's original letter and responses, are  
262     prepared in anticipation of litigation, and are prepared to become part of the attorney's work  
263     product for the attorney handling the anticipated eventual litigation of this matter and are  
264     therefore confidential and not subject to discovery.

265  
266     Records will be maintained as follows:

- 267  
268     • A log will be maintained which will document the nature of each request, all relevant dates,  
269       and disposition at each step.
- 270  
271     • Individual requests and dispositions, and all responses and pertinent documents will be  
272       kept on file at the institution.
- 273  
274     • Records will be kept at least five years following final disposition of the request.

<b>TITLE: GRIEVANCE PROCEDURES</b>		<b>SOP NUMBER</b> <b>20-08-01</b>
EFFECTIVE DATE: 08-01-2012	NON-RESTRICTED	PAGE 7 of 8

276 **TRANSFERRED OFFENDERS**

277  
278 When an offender has filed a request at one institution and is transferred prior to the review, or if  
279 he files a request after transfer on an action taken by the sending institution, the sending  
280 institution will complete the processing through the First Step. The Warden of the receiving  
281 institution will assist in communication with the offender.

282  
283 **DISCHARGED OFFENDERS**

284 If an offender is discharged before the review of an issue that affects the offender after  
285 discharge is completed, or if he files a request after discharge on such an issue, the  
286 institution will complete the processing and will notify the offender at his last known  
287 address. All other requests will be considered moot when the offender discharges, and  
288 MDOC will not complete the process.

289  
290 **RVR APPEALS**

291 *Adult Correctional Institutions: Written policy, procedure, and practice grant inmates the  
292 right to appeal decisions of the disciplinary committee to the warden/superintendent or  
293 designee. Inmates have up to 15 days of receipt of the decision to submit an appeal.  
294 The appeal is decided within 30 days of its receipt, and the inmate is promptly notified in  
295 writing of the results [4-4248].*

296 At the time of notification of a guilty finding in a disciplinary hearing, the inmate will be notified  
297 that he/she has the right to appeal any decision of, or disciplinary action taken by the  
298 Disciplinary Hearing Officer, directly to the Warden/Community Corrections Director or designee  
299 of the unit/center involved via the Legal Claims Adjudicator.

300 This notification will be documented by having the inmate sign the front of the RVR indicating  
301 that he/she understands the right to appeal.

302 If the inmate waives his/her right to appear and is found guilty, he/she cannot appeal the  
303 decision.

304 The appeal will be submitted in writing within fifteen (15) days after a copy of the Disciplinary  
305 Hearing Officer's decision is offered to the inmate and will set forth in detail the grounds for any  
306 appeal.

307 In the event the inmate is illiterate, at the request of the inmate, the inmate's case manager may  
308 assist him/her in writing the letter of appeal.

309 The Warden/Community Corrections Director or designee has thirty (30) calendar days from  
310 receipt of the appeal to respond.

311 During the appeal, the reviewer may affirm the action of the Disciplinary Hearing Officer or alter  
312 it as he/she deems just and proper except at no point in the appeal process shall the penalty be  
313 increased.

<b>TITLE: GRIEVANCE PROCEDURES</b>		<b>SOP NUMBER</b> <b>20-08-01</b>
EFFECTIVE DATE: 08-01-2012	NON-RESTRICTED	PAGE 8 of 8

323 If the offender is not satisfied, he/she may file suit in state or federal court. The offender must  
 324 provide the ARP number on the court forms.

325

**326 DOCUMENTS REQUIRED:**

327

328 Community Corrections: ARP Grievance Notification form

329 Monthly Report

330 Annual Report

331 As required by this procedure and through the chain of command

<b>SOP ENFORCEMENT AUTHORITY</b>		
<b>Reviewed and Approved for Issuance</b>	<i>[Signature]</i> Deputy Commissioner of Institutions	7/30/12 Date
	<i>[Signature]</i> Deputy Commissioner of Community Corrections	07/30/12 Date